

REMARKS

Applicants respectfully request further examination and reconsideration in view of the amendments above and the arguments set forth fully below. Claims 1, 2, 4-14, 16-25 and 27-29 were previously pending in this Application. Within the Office Action, Claims 1, 2, 4-14, 16-25 and 27-29 have been rejected. By the above amendment, Claims 1, 12, 13, 23, 27 and 28 have been amended. Accordingly, Claims 1, 2, 4-14, 16-25 and 27-29 are now pending in the application.

Rejections Under 35 U.S.C. § 101

Within the Office Action, Claims 12 and 23-25 have been rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. By the above amendments, Claims 12 and 23 have been amended to include the limitation that the system is an “electronic device-implemented” system. Furthermore, Claims 24 and 25 depend on the proper Claim 23. Thus, this rejection should be withdrawn.

Rejections Under 35 U.S.C. § 102

Within the Office Action, Claims 1, 2, 5-14, 16 and 21-25 have been rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent Application Publication No. 2002/0013852 to Janik (hereinafter “Janik”). The Applicants respectfully disagree.

Janik teaches a system for providing content, management, and interactivity for thin client devices. Janik teaches a capability for determining and aggregating the content objects presented to a specific user on content selection web pages which is derived from content preference selections provided by the user. [Janik, ¶ 0082] Janik further teaches time-based automation of the accessing, caching and streaming of content from the Internet at times prescribed by the user or at times derived by direction given by the user through the GUI content editors. [Janik, ¶ 0105] Janik does not teach identifying a use pattern corresponding to a user. Janik also does not teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. Janik also does not teach detecting an activity.

In contrast to the teachings of Janik, the methods and apparatus described within the present application, organize audio/visual content and prefetch selected audio/visual content configured to be displayed to a user. A presentation layer takes into account the preferences and use patterns of a user. [Present Specification, page 8, lines 17-20] In one embodiment, audio/visual content is pre-sorted according to the use patterns of the user. [Present Specification,

page 8, lines 20-21] In another embodiment, the audio/visual content is *pre-fetched* according to the use patterns of the user. [Present Specification, page 8, lines 21-22] As described above, Janik does not teach identifying a use pattern corresponding to a user. Janik also does not teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. Janik also does not teach detecting an activity.

The independent Claim 1 is directed to a method comprising identifying a preference and a use pattern corresponding to a user, detecting a current display window, prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern and setting a prefetch parameter for a frequency of prefetching in response to the preference. As described above, Janik does not teach identifying a use pattern corresponding to a user. Janik also does not teach prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. For at least these reasons, the independent Claim 1 is allowable over the teachings of Janik.

Claims 2 and 5-11 are all dependent on the independent Claim 1. As described above, the independent Claim 1 is allowable over the teachings of Janik. Accordingly, Claims 2 and 5-11 are all also allowable as being dependent on an allowable base claim.

The independent Claim 12 is directed to an electronic device-implemented system comprising means for identifying a preference and a use pattern, means for organizing audio/visual content using a parameter, means for detecting a current display window, means for prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern and means for setting a prefetch parameter for a frequency of prefetching in response to the preference. As described above, Janik does not teach means for identifying a preference and a use pattern. Janik also does not teach means for prefetching at least one audio/visual content in response to the current display window, the preference and the use pattern. For at least these reasons, the independent Claim 12 is allowable over the teachings of Janik.

The independent Claim 13 is directed to a method comprising detecting an activity, setting a prefetch parameter based on the detected activity, wherein the prefetch parameter includes a frequency of prefetching, detecting a current display window and prefetching a content item based on the prefetch parameter, the current display window and a use pattern. As described above, Janik does not teach detecting an activity. As also described above, Janik does not teach prefetching a content item based on the prefetch parameter, the current display window and a use pattern. For at least these reasons, the independent Claim 13 is allowable over the teachings of Janik.

Claims 14, 16, 21 and 22 are all dependent on the independent Claim 13. As described above, the independent Claim 13 is allowable over the teachings of Janik. Accordingly, Claims 14, 16, 21 and 22 are all also allowable as being dependent on an allowable base claim.

The independent Claim 23 is directed to an electronic device-implemented system comprising a media container configured for storing an audio/visual content item, a prefetch buffer configured for temporarily storing a prefetched audio/visual content item and a presentation layer configured for transmitting the prefetched audio/visual content item to the prefetch buffer based on a user's preference, a current display window and a use pattern, wherein the presentation layer transmits the prefetched audio/visual content item based on a preset frequency of prefetching. As described above, Janik does not teach a presentation layer configured for transmitting the prefetched audio/visual content item to the prefetch buffer based on a user's preference, a current display window and a use pattern. For at least these reasons, the independent Claim 23 is allowable over the teachings of Janik.

Claims 24 and 25 are both dependent on the independent Claim 23. As described above, the independent Claim 23 is allowable over the teachings of Janik. Accordingly, Claims 24 and 25 are both also allowable as being dependent on an allowable base claim.

The independent Claim 27 is directed to a method. The method of Claim 27 comprises detecting an activity, setting a prefetch parameter based on the detected activity, wherein the prefetch parameter includes a frequency of prefetching, detecting a current display window and prefetching a content item based on the prefetch parameter, the current display window and a use pattern at any time, in response to the detected activity. As described above, Janik does not teach prefetching a content item based on the prefetch parameter, the current display window and a use pattern at any time, in response to the detected activity. For at least these reasons, the independent Claim 27 is allowable over the teachings of Janik.

Rejections Under 35 U.S.C. § 103

Within the Office Action, Claims 4 and 17-20 have been rejected under 35 U.S.C. § 103 as being unpatentable over Janik. The Applicants respectfully disagree.

Claim 4 is dependent on the independent Claim 1. As described above, the independent Claim 1 is allowable over the teachings of Janik. Accordingly, Claim 4 is also allowable as being dependent on an allowable base claim.

Claims 17-20 are all dependent on the independent Claim 13. As described above, the independent Claim 13 is allowable over the teachings of Janik. Accordingly, Claims 17-20 are all also allowable as being dependent on an allowable base claim.

Within the Office Action, Claims 28 and 29 have been rejected under 35 U.S.C. § 103 as being unpatentable over Janik in view of Ehrmantraut et al., *The Personal Electronic Program Guide - Towards the Pre-selection of Individual TV Programs*, 1996 (hereinafter “Ehrmantraut”). The Applicants respectfully disagree.

Claims 28 and 29 are dependent on the independent Claim 1. As described above, the independent Claim 1 is allowable over the teachings of Janik and their combination. Accordingly, Claims 28 and 29 are both also allowable as being dependent on an allowable base claim.

Furthermore, Claim 28 further specifies that the audio/visual content is organized according to use patterns of the user. It is recognized that Janik, does not teach wherein the audio/visual content is organized according to use patterns of the user.

Ehrmantraut teaches an automatic initialization and adaption mode which observes program selections and traces program usage data. Based on the usage data, preferences and demands of the user are analyzed. A history list containing program selection events is kept. An initial user profile is calculated based on the initial interactions. [Ehrmantraut, page 247] Although Ehrmantraut teaches observing usage data and developing a history list and a user profile, Ehrmantraut does not teach wherein the audio/visual content is organized according to use patterns of the user. Ehrmantraut also does not teach prefetching at least one audio/visual content in response to the current display window the preference and the use pattern. Furthermore, Ehrmantraut has nothing to do with prefetching which also makes the combination improper. For at least these additional reasons, the dependent Claim 28 is allowable over the teachings of Janik, Ehrmantraut and their combination.

Claim 29 further specifies that the audio/visual content utilized more frequently is stored in a more quickly accessible location. Within the Office Action, it is merely stated that analyzing a user's viewing habits in order to obtain content that would be of interest to a user to provide for additionally filtering of content. That has nothing to do with storing audio/visual content utilized more frequently in a more quickly accessible location. For illustrative purposes, a comparative example is described to show that the rejection based in part on Ehrmantraut is not proper. For example, data which is not used very often is stored in a location such as a hard drive which has a relatively slow access time. However, data which is accessed often is stored in a location such as random access memory which has a much faster access time than the hard drive. The claimed invention includes a similar limitation in Claim 29. Thus, Janik, Ehrmantraut and their combination do not teach wherein the audio/visual content utilized more frequently is stored in a

more quickly accessible location. For at least these additional reasons, the dependent Claim 29 is allowable over the teachings of Janik, Ehrmantraut and their combination.

For the reasons given above, the applicant respectfully submits that the claims are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: October 31, 2008

By: /Jonathan O. Owens/

Jonathan O. Owens
Reg. No. 37,902
Attorneys for Applicant(s)